

House Bill 775

By: Representatives Drenner of the 86th, Porter of the 143rd, Gardner of the 57th, Thomas of the 55th, Hugley of the 133rd, and others

A BILL TO BE ENTITLED

AN ACT

1 To provide for legislative intent and purpose; to amend Chapter 3 of Title 46 of the Official
2 Code of Georgia Annotated, relating to electrical service, so as to provide for renewable,
3 recoverable, and recycled energy portfolio standard goals; to provide for definitions; to
4 provide for reports, incentives, penalties, and rules and regulations; to provide for a
5 renewable, recoverable, and recycled energy credits trading program; to provide for a registry
6 of producers of renewable, recoverable, and recycled energy in this state; to provide for
7 credits for landfill gas or other renewable, recoverable, or recycled energy in the form of gas
8 supplied by a producer of renewable, recoverable, or recycled energy and sold to a customer
9 or gas distribution system; to provide for a reporting system to monitor compliance and
10 prevent counting renewable, recoverable, or recycled energy credits more than once; to
11 amend Chapter 3A of Title 46 of the Official Code of Georgia Annotated, relating to
12 integrated resource planning, so as to require integrated resource plans to include sufficient
13 renewable, recoverable, and recycled energy resources to meet renewable, recoverable, and
14 recycled energy portfolio standard goals; to provide for related matters; to repeal conflicting
15 laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 (a) It is the intent of the legislature to recognize the economic, environmental, and fuel
19 diversity benefits of renewable, recoverable, and recycled energy resources, to encourage
20 further development of these resources, and to encourage the establishment of a market for
21 renewable, recoverable, and recycled energy in Georgia using the state's renewable,
22 recoverable, and recycled energy resources. These efforts can reduce the consumption of
23 fossil fuels for the generation of electricity and reduce the state's dependence on finite,
24 nonrenewable resources. Accordingly, the legislature finds that it should establish goals for
25 electric utilities to guide them in incorporating renewable, recoverable, and recycled
26 resources into their resource portfolios.

H. B. 775

(b) The purpose of this Act is to lessen Georgia's dependence on fossil fuels and the exposure of Georgia's consumers to volatile and rising prices for coal and natural gas by encouraging the greater use of renewable, recoverable, and recycled energy by establishing goals for electric utility companies in implementing renewable, recoverable, and recycled energy portfolio standards.

SECTION 2.

Chapter 3 of Title 46 of the Official Code of Georgia Annotated, relating to electrical service, is amended in Article 1, relating to generation and distribution of electricity, by inserting a new part to be designated Part 4 to read as follows:

"Part 4

46-3-70.

As used in this part, the term:

(1) 'Commission' means the Georgia Public Service Commission.

(2) 'Electric membership corporation' means a corporation organized under Article 2 of this chapter.

(3) 'Electric service provider' means any electric utility company, electric membership corporation, or municipal electric provider engaged in the business of distributing electricity to retail electric customers in this state.

(4) 'Electric utility company' means an electric utility as defined in Code Section 46-1-1.

(5) 'Low impact hydropower' means a dam and powerhouse that:

(A) Is certified as low impact by the Low Impact Hydropower Institute; or

(B) Is evaluated by the commission as compliant with the following standards:

(i) Providing river flows that are healthy for fish, wildlife, and water quality, including seasonal flow fluctuations where appropriate;

(ii) Protecting water quality in the river;

(iii) Providing effective fish passage and protecting fish from entrainment;

(iv) Taking sufficient action to protect, mitigate, and enhance environmental conditions in the watershed;

(v) Avoiding negative impact on species classified as threatened or endangered by the federal or state government;

(vi) Avoiding inappropriate impact on cultural resources;

(vii) Providing free access to the water and accommodating recreational activities on the river; and

(viii) Avoiding recommendation for removal by a federal or state agency due to adverse environmental impact.

(6) 'Municipal electric provider' means an electrical service provider owned or operated by a municipal corporation.

(7) 'Recycled energy' means:

(A) Exhaust heat resulting from any industrial process;

(B) Industrial tail gas that would otherwise be flared, incinerated, or vented; or

(C) Energy extracted from a pressure drop in any gas, excluding any pressure drop from a condenser that subsequently vents the resulting heat.

If the process used to recycle energy incorporates supplemental use of a fossil fuel, the amount of the recycled energy that qualifies as a renewable eligible resource shall be reduced by 40 percent of the net heating value of the incremental fossil fuel used in the process.

(8) 'Recoverable energy' means electrical energy produced from or by any of the following: the combustion of landfill gas; methane gas resulting from the anaerobic decomposition of organic materials; pyrolysis; gassification; biomass sources, including municipal solid waste (if fly ash and bottom ash resulting from incineration of municipal solid waste is vitrified or treated by the best technology approved by the Environmental Protection Division of the Department of Natural Resources or by the United States Environmental Protection Division), any other waste product, and geothermal resources; postconsumer waste paper; or forest related sources, including mill residues, waste pallets, crates, and dunnage.

(9) 'Renewable energy' means electrical energy produced from or by any of the following: wind; solar energy; low impact hydropower; geothermal resources; ocean thermal energy; wave or tidal energy; biofuels derived entirely from organic sources other than coal, petroleum, or natural gas; hydrogen fuels or fuel cells if the fuel is not derived from coal, petroleum, or natural gas; electrical energy savings resulting from the use of solar energy and heat pumps to heat water; and forest and agricultural biomass sources including orchard tree crops, vineyard, grain, legumes, sugar, switchgrass, other crop by-products or residues, and precommercial thinning, slash, brush or landscape trimmings, but not including old-growth timber.

(10) 'Renewable, recoverable, and recycled energy credit' means a tradeable instrument created as an attribute of renewable, recoverable, or recycled energy in accordance with rules and regulations promulgated in accordance with Code Section 46-3-73.

1 46-3-71.

2 (a) Each electric service provider shall establish a renewable, recoverable, and recycled
3 energy portfolio standard goal of:

4 (1) One-half of 1 percent of its annual net electricity sales by December 31, 2007;

5 (2) One percent of its annual net electricity sales by December 31, 2008;

6 (3) Two percent of its annual net electricity sales by December 31, 2009;

7 (4) Three percent of its annual net electricity sales by December 31, 2010;

8 (5) Four percent of its annual net electricity sales by December 31, 2011;

9 (6) Five percent of its annual net electricity sales by December 31, 2012;

10 (7) Six percent of its annual net electricity sales by December 31, 2013;

11 (8) Seven percent of its annual net electricity sales by December 31, 2014;

12 (9) Eight percent of its annual net electricity sales by December 31, 2015;

13 (10) Nine percent of its annual net electricity sales by December 31, 2016;

14 (11) Ten percent of its annual net electricity sales by December 31, 2017;

15 (12) Eleven percent of its annual net electricity sales by December 31, 2018; and

16 (13) Twelve percent of its annual net electricity sales by December 31, 2019.

17 (b) When an electric service provider has reached the standard goal of 12 percent of annual
18 net electricity sales, the electric service provider shall maintain a renewable, recoverable,
19 and recycled energy portfolio of at least 12 percent of its annual net electricity sales.

20 46-3-72.

21 (a) Any electric service provider not meeting the renewable, recoverable, and recycled
22 energy portfolio standard goal for any year shall report to the commission within 90 days
23 following the annual goal date set out in Code Section 46-3-71 and provide an explanation
24 for its failure to meet the goal.

25 (b) The commission may provide incentives to encourage electric service providers to
26 exceed their renewable, recoverable, and recycled energy portfolio standard goals or to
27 meet such goals early, or both.

28 (c) The commission shall fine each electric service provider that fails to reach a portfolio
29 standard goal set out in Code Section 46-3-71 in accordance with this subsection:

30 (1) If the discrepancy between the portfolio standard goal and the achievement of the
31 electric service provider is equal to or less than 10 percent of the goal, the fine shall be
32 0.25 percent of the electric service provider's annual net electricity sales; and

33 (2) If the discrepancy between the portfolio standard goal and the achievement of the
34 electric service provider is greater than 10 percent of the goal, the fine shall be 1 percent
35 of the electric service provider's annual net electricity sales.

(d) For electric service providers subject to rate determination by the commission, the cost of purchases of energy and energy credits to meet the renewable, recoverable, and recycled energy portfolio standard goals or to meet such goals early shall be included in the rate base as expenses of the electric service provider in such rate determination. Penalties imposed by the commission for failure to achieve the standard goals for renewable, recoverable, and recycled energy portfolios in accordance with this article shall not be included in the rate base as expenses of the electric service provider in rate determination for electric service providers subject to rate determination by the commission.

46-3-73.

(a) No later than January 1, 2006, the commission shall adopt rules and regulations to implement, administer, and enforce this part.

(b) At a minimum, the rules and regulations shall specify reasonable performance standards that all renewable, recoverable, and recycled energy capacity additions shall meet, including but not limited to requirements for design and operation to maximize the energy output from the capacity additions in accordance with current industry standards, the rules and regulations shall encourage the development, construction, and operation of new renewable, recoverable, and recycled energy projects at those sites in this state that have the greatest economic potential for capture and development of this state's renewable, recoverable, and recycled energy resources in an environmentally beneficial manner. The rules and regulations shall require that proposed capacity additions shall meet the emissions requirements of the more stringent of the following: the Georgia rules and regulations for air quality or the best available air control technology.

(c) The commission shall establish by rules and regulations a renewable, recoverable, and recycled energy credits trading program, allowing any electrical service provider that does not meet the goals set out in Code Section 46-3-71 by directly owning or purchasing capacity using renewable, recoverable, or recycled energy to purchase sufficient renewable, recoverable, and recycled energy credits to meet the goals established in Code Section 46-3-71.

(d) The commission shall establish by rules and regulations a registry of producers of renewable, recoverable, and recycled energy in this state. Electric service providers may purchase renewable, recoverable, and recycled energy or renewable, recoverable, and recycled energy credits directly from producers on the Georgia registry. In promulgating rules and regulations in accordance with this part, the commission shall provide for such procedures and processes to utilize the renewable, recoverable, and recycled energy or renewable, recoverable, and recycled energy credits from producers on the Georgia registry and from producers outside the state so as to achieve the maximum benefit to the state in

1 terms of the state's economy, environment, and fuel diversity. The commission may
2 establish and support other mechanisms for direct marketing of renewable, recoverable, and
3 recycled energy and energy credits by Georgia producers of such renewable, recoverable,
4 and recycled energy.

5 (e) The commission shall provide by rules and regulations that energy sold to consumers
6 for a premium rate under the Georgia Green Pricing Accreditation Program shall not be
7 included in a renewable, recoverable, and recycled energy portfolio required by this part
8 and may establish other incentives for the production and use of renewable, recoverable,
9 and recycled energy and energy credits.

10 (f) The rules and regulations promulgated in accordance with this Code section shall
11 provide that an electric service provider may credit toward satisfaction of the goals set out
12 in Code Section 46-3-71 any production or acquisition of landfill gas or other renewable,
13 recoverable, or recycled energy in the form of gas sold to a customer or to a gas distribution
14 system or credits based on such gas, based on conversion to kilowatt hours of the thermal
15 energy content in British thermal units of the renewable, recoverable, or recycled energy
16 and using for the conversion factor the system-wide average heat rate of the gas-fired units
17 of the electric service provider's system as measured in British thermal units per kilowatt
18 hour.

19 (g) The rules and regulations promulgated in accordance with this Code section shall
20 provide for a reporting system to monitor compliance with this part and to prevent electric
21 service providers from counting renewable, recoverable, or recycled energy or energy
22 credits more than once. The reporting system shall require electric service providers to
23 report whether they are subject to renewable, recoverable, and recycled energy portfolio
24 requirements in more than one state, the amount of such requirements if applicable, and to
25 indicate the sources of energy or energy credits used to comply with renewable,
26 recoverable, and recycled energy portfolio requirements in Georgia and other applicable
27 states. It shall be unlawful to comply with the requirements of this part by using renewable,
28 recoverable, or recycled energy or energy credits previously or subsequently used to
29 comply with the renewable, recoverable, or recycled energy requirements of any other
30 state."

31 **SECTION 3.**

32 Chapter 3A of Title 46 of the Official Code of Georgia Annotated, relating to integrated
33 resource planning, is amended in Code Section 46-3A-1, relating to definitions relative to
34 integrated resource planning, by striking paragraph (7) and inserting in lieu thereof the
35 following:

“(7) 'Plan' means an integrated resource plan which contains the utility’s electric demand and energy forecast for at least a 20 year period, contains the utility’s program for meeting the requirements shown in its forecast in an economical and reliable manner, contains the utility’s analysis of all capacity resource options, including both demand-side and supply-side options, and sets forth the utility’s assumptions and conclusions with respect to the effect of each capacity resource option on the future cost and reliability of electric service. The plan shall also:

(A) Contain the size and type of facilities which are expected to be owned or operated in whole or in part by such utility and the construction of which is expected to commence during the ensuing ten years or such longer period as the commission deems necessary and shall identify all existing facilities intended to be removed from service during such period or upon completion of such construction;

(B) Contain practical alternatives to the fuel type and method of generation of the proposed electric generating facilities and set forth in detail the reasons for selecting the fuel type and method of generation;

(C) Contain a statement of the estimated impact of proposed and alternative generating plants on the environment and the means by which potential adverse impacts will be avoided or minimized;

(D) Indicate in detail the projected demand for electric energy for a 20 year period and the basis for determining the projected demand;

(E) Describe the utility's relationship to other utilities in regional associations, power pools, and networks;

(F) Identify and describe all major research projects and programs which will continue or commence in the succeeding three years and set forth the reasons for selecting specific areas of research;

(G) Identify and describe existing and planned programs and policies to discourage inefficient and excessive power use; and

(H) Identify and describe existing and planned renewable, recoverable, or recycled energy resources sufficient to comply with renewable, recoverable, and recycled energy portfolio standard goals set out in Code Section 46-3-71; and

(H)(I) Provide any other information as may be required by the commission."

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.